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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/670,138	09/24/2003	Frederick Douglass	YOR920030267US1	7394				
<div>35526 7590 06/14/2007</div> <div>DUKE W. YEE</div> <div>YEE & ASSOCIATES, P.C.</div> <div>P.O. BOX 802333</div> <div>DALLAS, TX 75380</div>								
<div>EXAMINER</div> <div>MOUZON, LAJUANIA N</div>								
<table border="1"><thead><tr><th>ART UNIT</th><th>PAPER NUMBER</th></tr></thead><tbody><tr><td>2109</td><td></td></tr></tbody></table>					ART UNIT	PAPER NUMBER	2109	
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2109								
<table border="1"><thead><tr><th>MAIL DATE</th><th>DELIVERY MODE</th></tr></thead><tbody><tr><td>06/14/2007</td><td>PAPER</td></tr></tbody></table>					MAIL DATE	DELIVERY MODE	06/14/2007	PAPER
MAIL DATE	DELIVERY MODE							
06/14/2007	PAPER							

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/670,138

Applicant(s)

DOUGLIS ET AL.

Examiner

La Juania N. Mouzon

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/07
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,10-12,14-17 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,5,6,7,11,15,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 2,4,10,12,14 and 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Applicant's Amendment filed 4/26/2007. Claims 1,2, 4-7, 10-12, 14-17, 20-23 are pending. Claims 3, 8-9, 13, and 18-19 are canceled. Claims 21-23 are new added.

Drawings

2. Applicant's cancellation of claims 8-9 and 18-19 overcomes the drawing objection. The Examiner's objection to the drawings has been withdrawn.

Specification

3. Applicant's amendments to the specification filed on 4/26/2007, have been fully considered and are persuasive. The objections to the specification have been withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 6, 11, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson (US 6,014,644).

Art Unit: 2109

6. In regards to claim 1 Erickson discloses, a method, of scaling communication messages in a network of data processing systems, each one of the data processing systems capable of transmitting alert messages to any other one of the data processing systems **(Col. 2 line(s) 59-65, teaches a data processing system capable of transmitting alert messages. As interpreted in the specification, an alert is something that notifies the end user. Therefore, the messages that are sent in the prior art can be interpreted as an alert, because they are notifying the seller that they would like a quote.)**, the method outputting a communication comprising:

- a. transmitting an alert message, which requests a reply, from a source one of the data processing systems to a plurality of recipient ones of the data processing systems **(Col. 3 line(s) 49-55, teaches transmitting an alert message, which requests a reply, to a plurality of recipients.)**, the alert message being received by the plurality of recipient ones of the data processing systems **(Col. 4 line(s) 38, teaches message being received by recipient.)**;
- b. outputting the alert message by only a first subset of the plurality of recipient ones of the data processing systems, the first subset being fewer than all of the plurality of recipient ones of the data processing systems **(Col. 3 line(s) 49-51, teaches the buyer sending the message to only a subset of users from the database. Therefore, the message is outputted to a first subset of recipients fewer than the total.)**;
- c. receiving, by the source one of the data processing systems, reply messages transmitted from at least some of the first subset of the plurality of

recipient ones of the data processing systems in response to a receipt of the alert message **(Col. 4 line(s) 14-15, teaches receiving replies to the message.);**

d. determining, by the source one of the data processing systems, if a predetermined number of reply messages has been received from the at least some of the first subset of the plurality of recipient ones of the data processing systems **(Col. 5 line(s) 18-20, teaches sending reminder messages to the recipients that have not replied. Therefore, a predetermine number of replies have not been received.);**

e. in response to determining that the predetermined number of reply messages has not been received, retransmitting the alert message to the plurality of recipient ones of the data processing systems, the retransmitted alert message being received by the plurality of recipient ones of the data processing systems **(Col. 5 line(s) 18-20, teaches sending reminder messages to the recipients that have not replied.);**

f. and outputting the retransmitted alert message by a second subset of the plurality of recipient ones of the data processing systems **(Col. 5 line(s) 18-20, teaches sending reminder messages to the recipients that have not replied. Therefore, this is a second subset of recipients.);**

7. In regards to claim 5 and 15 Erickson discloses, wherein the alert message communication is one of an instant message and an electronic mail message **(Col. 4 line(s) 24-26, teaches whereas the communication of the message is electronic.);**

Art Unit: 2109

8. In regards to claim 6 and 16 Erickson discloses, wherein the alert message communication is one of a PollCast and a SkillTap message **(Col. 4 line(s) 24-26, teaches whereas the communication of the message is electronic. Therefore, since PollCast and SkillTap are electronic messaging applications these methods are covered by any electronic messaging forms.)**.

9. In regards to claim 11 Erickson discloses, a system for scaling communication messages in a network of communicating peer data processing systems, each one of the data processing systems capable of transmitting alert messages to any other of the data processing systems for outputting a communication from a single source to a plurality of recipient devices **(Col. 2 line(s) 59-65, teaches a data processing system capable of transmitting alert messages. As interpreted in the specification, an alert is something that notifies the end user. Therefore, the messages that are sent in the prior art can be interpreted as an alert, because they are notifying the seller that they would like a quote.)**, comprising:

g. a source one of the data processing systems transmitting an alert message, which requests a reply, to a plurality of recipient ones of the data processing systems **(Col. 3 line(s) 49-55, teaches transmitting an alert message, which requests a reply, to a plurality of recipients.)**, the alert message being received by the plurality of recipient ones of the data processing systems **(Col. 4 line(s) 38, teaches message being received by recipient.)**;

- h. only a first subset of the plurality of recipient ones of the data processing systems outputting the alert message, the first subset being fewer than all of the plurality of recipient ones of the data processing the source one of the data processing systems **(Col. 3 line(s) 49-51, teaches the buyer sending the message to only a subset of users from the database. Therefore, the message is outputted to a first subset of recipients fewer than the total.);**
- i. the source one of the data processing systems receiving reply messages transmitted from at least some of the first subset of the plurality of recipient ones of the data processing systems in response to a receipt of the alert message **(Col. 4 line(s) 14-15, teaches receiving replies to the message.);**
- j. the source one of the data processing systems determining if a predetermined number of reply messages has been received from the at least some of the first subset of the plurality of recipient ones of the data processing systems **(Col. 5 line(s) 18-20, teaches sending reminder messages to the recipients that have not replied. Therefore, a predetermine number of replies have not been received.);**
- k. in response to determining that the predetermined number of reply messages has not been received, the source one of the data processing systems retransmitting the alert message to the plurality of recipient ones of the data processing systems, the retransmitted alert message being received by the plurality of recipient ones of the data processing systems **(Col. 5 line(s) 18-20,**

Art Unit: 2109

teaches sending reminder messages to the recipients that have not replied.);

I. and a second subset of the plurality of recipient ones of the data processing systems outputting the retransmitted alert message (Col. 5 line(s) 18-20, teaches sending reminder messages to the recipients that have not replied. Therefore, this is a second subset of recipients.).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson (US 6,014,644) as applied to claims 1 and 11 above, and further in view of Heinzl et al. (US PGPub 2004/0225718).

Art Unit: 2109

13. In regards to claims 7 and 17 Erickson discloses, wherein outputting the within each recipient device: storing the alert message communication in a storage device **(Col. 4 line(s) 38-40, teaches storing of the message in a database);**

14. In regards to claims 7 and 17 Erickson does not disclose, wherein outputting the within each recipient device: determining if a predetermined amount of time has elapsed since a previous determination was made about whether to output the alert message communication has been made; determining whether to output the alert message communication based on output criteria; and outputting the alert message communication if the output criteria is satisfied.

15. In the same field of endeavor Heinzl et al. teach outputting an alert message based on time and criteria satisfied (**¶0006**).

16. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Erickson's centrally coordinated communication systems with multiple broadcast data objects and response tracking with Heinzl et al. teaching as discussed above to allow for the capability of sending relevant messages to specific recipients, to create appropriate alert notification messages and to actively send them through various message channels.

Allowable Subject Matter

17. Claims 2, 4, 10, 12, 14, and 21-23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. The following is a statement of reasons for the indication of allowable subject matter: Although Erickson (US 6,014,644) teaches everything in claim 1, it does not disclose whereas assigning a probability to the alert message; and determining, by each of the plurality of recipient ones of the data processing systems, determine whether to output the alert message based on the probability assigned to the alert message.

19. Since claims 4, 10, and 21-23 are dependent above claim 2 therefore indicated as allowable subject matter.

20. The following is a statement of reasons for the indication of allowable subject matter: Although Erickson (US 6,014,644) teaches everything in claim 11, it does not disclose wherein the source one of the data processing systems server assigns a probability to the alert message communication, and wherein each of the plurality of recipient ones of the data processing systems devices determines whether to output the alert message communication based on the probability assigned to the alert message communication.

Art Unit: 2109

21. Since claim 14 is dependent above claim 12 therefore indicated as allowable subject matter.

22. Claim 20 allowed.

23. The following is a statement of reasons for the indication of allowable subject matter: Although Erickson (US 6,014,644) teaches, A method of distributing messages to a plurality of client devices in a network, comprising: receiving a message for broadcast to a plurality of client devices; transmitting the message to the plurality of client devices; it does not disclose assigning a probability value to the message; at each client device, generating a randomized value; comparing the randomized value of a client device to the probability value of the message; and outputting the message based on the comparison of randomized value and the probability value.

Response to Arguments

24. Applicant's arguments, see pgs. 8-11, filed 4/26/2007, with respect to the rejection(s) of claim(s) 1,5,7,11,13, and 17 under 102(e) has been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Erickson (US 6,014,644).

Art Unit: 2109

25. Applicant's arguments, see pgs. 11-17, filed 4/26/2007, with respect to claims 2, 4, 6, 10, 12, 14, 16, and 20 has been fully considered and are persuasive. The rejection of claims 2, 4, 6, 10, 12, 14, 16, and 20 has been withdrawn.

Conclusion

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

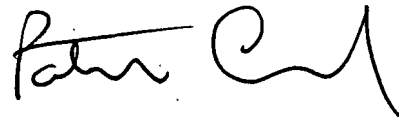
Any inquiry concerning this communication or earlier communications from the examiner should be directed to La Juania N. Mouzon whose telephone number is 571-270-3045. The examiner can normally be reached on Monday - Friday 8:00-5:00.

Art Unit: 2109

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LNМ

A handwritten signature in black ink, appearing to read 'Patrick Assouad', with a stylized flourish at the end.

**PATRICK ASSOUD
SUPERVISORY PATENT EXAMINER**